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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,452	09/20/2003	Tomas L. Mueller		4517

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EXAMINER

GATES, ERIC ANDREW

ART UNIT PAPER NUMBER

3722

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,452	MUELLER, TOMAS L.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eric A. Gates	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/2/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-18 in the reply filed on 28 October 2005 is acknowledged.
2. Claims 19-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 28 October 2005.

### ***Claim Objections***

3. Claims 1-18 are objected to because of the following informalities: The line numbers on the left side of the pages interfere with the numbering of the claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.
5. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites the limitation "said shaft of said pneumatic input port" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5, 9, 14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Morrison et al. (US Patent 6,776,562).

7. Regarding claim 1, Morrison et al. discloses a power assisted drill press 10 comprising a drill motor 14 having an actuation switch 20 and a bit 26, said drill motor mounted with a motor frame 18; a press frame 12 having a frame support 60 having a first (58a side) and a second end 64 and a frame base 62 nearest said second end, said motor frame placed nearest first end and said bit pointing toward second end; a gap between said bit and said frame base; a pneumatic feed cylinder 36 mounted with said press frame and having a moving shaft 40 and a pneumatic input port 92 whereby a pneumatic pressure into said input port creates a force onto said shaft and thereby promotes movement of said shaft; a pneumatic pressure regulator 72 having an output port 92 connected with said input port 92 of said feed cylinder 36 and an activating lever 20, said regulator supplying said pneumatic pressure from said output port in a value

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relative to said activating lever displacement and substantially venting said pneumatic pressure when said lever is not displaced (through port 90), whereby said work material and said bit approach and substantially contact when said moving shaft extends due to said pneumatic pressure provided to said feed cylinder.

8. Regarding claim 2, Morrison et al. discloses a top plate 58a mounted with said frame support 60 and having a guide hole and said feed cylinder 36 attached; a guide rod 60 having a first end (right side Figure 1) and a second end (left side Figure 1) and slidably engaged through said guide hole; and a motor plate 94 mounted with said motor frame 18 and having said first end of said guide rod 60 attached and positioned to allow extension of said moving shaft 40 of said feed cylinder 36 to cause said motor frame, motor plate, and guide rod to move.

9. Regarding claim 3, Morrison et al. discloses said feed cylinder 36 is attached with said frame base 62 and positioned to allow extension of said moving shaft 40 of said feed cylinder to move said work material toward said bit 26.

10. Regarding claims 4 and 5, Morrison et al. discloses said frame base 62 comprises a base plate 62 having a through hole 67 of substantially the same size as said frame support 60, and said base plate 62 slidably fastened with said frame support with said through hole.

11. Regarding claim 9, Morrison et al. discloses a shaft tip 46 having a recess for clearance of said bit 26, said shaft tip mounted onto said shaft 44 of said pneumatic input port 92 and positioned to align with said bit.

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12. Regarding claim 14, Morrison et al. discloses said drill motor 14 is a pneumatic drill motor.

13. Regarding claim 16, Morrison et al. discloses the invention substantially as claimed per the rejection above.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 6-8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Winslow (US Patent 2,910,895).

16. Regarding claim 6, Morrison et al. discloses the invention substantially as claimed, except Morrison does not disclose a suction cup having a cup cavity and mounted near said second end of said frame support. Winslow teaches the use of a flexible suction cup 328 with a cup cavity for the purpose of releasably mounting the drill to a workpiece. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the drill press of Morrison with the suction cup of Winslow in order to be able to stably mount the drill press during operation.

17. Regarding claim 7, Morrison et al. discloses the invention substantially as claimed, except Morrison does not disclose a venturi capable of creating a vacuum, said

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vacuum of said venturi connected with said cup cavity of said suction cup whereby when said venturi is activated a vacuum is drawn within said cup cavity, thereby allowing said press frame to suctionally attach to a surface. Winslow teaches the use of a venturi 324 for the purpose of creating a vacuum in the cup cavity. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the drill press of Morrison with the venturi of Winslow in order to be able to automatically mount the drill press to a work surface.

18. Regarding claim 8, the modified invention of Morrison et al. discloses the invention substantially as claimed in claim 7 above.

19. Regarding claims 12 and 13, the modified invention of Morrison et al. discloses the invention substantially as claimed, except Morrison does not disclose a mating plate within the cup cavity having a mating surface capable of conforming to the surface of the work material. Winslow teaches the use of a mating plate 504 made of a flexible material such as silicone putty for the purpose of conforming to the surface of the work material. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the drill press of Morrison with the mating plate of Winslow in order to be able to mount the drill press to a non-uniform work surface.

20. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Shulters et al. (US Patent 2,883,891).

21. Regarding claims 10 and 11, Morrison et al. discloses the invention substantially as claimed, except Morrison does not disclose springs on the guide rod or keepers to

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contain the springs. Shulters teaches the use of springs 41 on guide rods with a keeper 20 to hold on the springs for the purpose of holding the guide rods at an extended position. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the drill press of Morrison with the springs and keeper of Shulters in order to have an alternative method of keeping the drill at an extended position.

22. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison.

23. Regarding claim 15, Morrison et al. discloses the invention substantially as claimed, except Morrison does not disclose said actuation switch and said activating lever are positioned to utilize an index finger to actuate said drill motor switch while simultaneously utilizing a thumb to actuate said activating lever of said regulator. Since Morrison uses the same switch to perform the functions of the actuation switch and activating lever above, there is no need to use both the index finger and thumb for actuation (although the capability is there). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have separated the combined functions of Morrison's switch, because it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art, and applicant does not state an advantage to having the functions controlled separably.

24. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Winslow and further in view of Shulters et al.



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25. Regarding claim 17 and 18, the modified invention of Morrison et al. discloses the invention substantially as claimed in claims 11 and 12 above.

### ***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The inventions cited relate to pneumatic controlled drills and/or drills with suction mounted devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-5:15 & alt Fridays 7:45-4:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

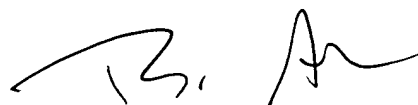
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EAG

22 November 2005

Eric A. Gates  
Patent Examiner  
Art Unit 3722



BOYER D. ASHLEY  
PRIMARY EXAMINER